

1 DEVIN DERHAM-BURK #104353  
2 CHAPTER 13 STANDING TRUSTEE  
3 P O Box 50013  
4 San Jose, CA 95150-0013

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8 Trustee for Debtors

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5

In re: )  
11 Gregory Del Carlo ) Chapter 13  
12 ) Case No. 16-52268 MEH  
13 Tracy Del Carlo ) TRUSTEE'S OBJECTION TO DEBTORS'  
14 ) MOTION TO MODIFY CHAPTER 13 PLAN  
15 ) AND REQUEST FOR HEARING with  
16 ) CERTIFICATE OF SERVICE  
17 Debtors )

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Devin Derham-Burk, Trustee in the above matter, hereby requests a hearing be brought before the above entitled Court to determine whether or not the debtors should be allowed to modify the Chapter 13 plan as requested. The Trustee objects to the debtors' Motion to Modify Chapter 13 Plan filed on May 8, 2018 for the following reasons:

1. The Trustee avers that the debtors have improperly "amended" their Confirmed Plan. It appears the debtors are attempting to modify the plan pursuant to §1329(a)(4), however, the language at the top of the "Chapter 13 Plan" attached to the motion only applies to a plan pre-confirmation. The Trustee requests that the Modified Plan be further modified.
2. The modified plan is not feasible pursuant to 11 U.S.C. §1325(a)(6) because the

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1                   Debtors are proposing to pay a total of \$43,435.00 and this is not enough money  
2                   to pay all filed secured, priority, administrative, and any general unsecured claims  
3                   plus trustee's fees. As of the date of this objection, and based on the Trustee's  
4                   review of the filed claims, the Debtors would need to pay \$114,402.00.

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7                   Dated: May 29, 2018

/S/ Devin Derham-Burk

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8                   Chapter 13 Trustee

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## **CERTIFICATE OF SERVICE BY MAIL**

I declare that I am over the age of 18 years, not a party to the within cause; my business address is 983 University Ave. C-100, Los Gatos, California 95032. I served a copy of the within Objection to Debtors' Motion to Modify Chapter 13 Plan by placing same in an envelope in the U.S. Mail at Los Gatos, California on May 29, 2018.

Said envelopes were addressed as follows:

Gregory Del Carlo  
Tracy Del Carlo  
2007 Gypsy Ave  
San Martin, CA 95046

Stan Zlotoff Esq  
300 S First St #215  
San Jose, CA 95113

/S/ Filipa Gomes

## Office of Devin Derham-Burk, Trustee